IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 27TH OCTOBER 2006 / 5TH KARTHIKA 1928

WP(C).No. 23322 of 2003(B)

PETITIONER:

JOYS P.STEPHEN, PULIMOOTTIL HOUSE,
THODUPUZHA.

BY ADV. SRI.T.R.RAMACHANDRAN NAIR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, INDUSTRIES (B) DEPARTMENT, TRIVANDRUM.

2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, IDUKKI

3. THE DEPUTY TAHSILDAR, (REVENUE RECOVERY)
THODUPUZHA.

BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF LETTER DT.23.2.98 OF THE DISTRICT INDUSTRIES CENTRE.

P2: TRUE COPY OF NOTICE DT.8.7.2003.

P3: TRUE COPY OF NOTICE DT.17.7.2003 U/S.34 OF RR ACT.

P4: TRUE COPY OF GOMS DT.4.1.1994 ALONG WITH RELEVANT PAGES OF MANUAL FOR STATE INVESTMENT SUBSIDY.

P5: TRUE COPY OF THE NOTICE OF ASSESSMENT DT.29.2.2000.

RESPONDENT'S EXHIBITS:

R2(a): TRUE COPY OF RECEIPT EVIDENCING PAYMENT OF SUBSIDY AS PER PROCEEDINGS DT.28.1.98.

R2(b): TRUE COPY OF THE LETTER DT.19.7.2001.

R2(c): TRUE COPY OF THE AGREEMENT DT.28.1.98.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.23322 of 2003

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Dated this the 27th day of October, 2006.

JUDGMENT

Even when the W.P. was admitted, this court found no justification for granting absolute stay because petitioner was not entitled to withhold the investment subsidy which was available to only industries which are run for not less than five years. Petitioner admittedly did not run the industry for five years and therefore, was ineligible for the investment subsidy and consequently was bound to refund the same with interest at 14% p.a. in terms of clause 25 of Ext.P4. It is not known whether the petitioner made payment in terms of the interim order dated 22.7.2003. Counsel submitted that petitioner should be granted reasonable time to make payment. As already held, there is no merits in the case and petitioner is bound to repay the amount in terms of clause 25 of Ext.P4 with 14% interest per annum from date of disbursement which is admittedly 29.1.1998. If petitioner has complied with the interim order dated 22.7.2003, then petitioner is granted two equal instalments to pay the balance arrears, first of which will be paid on or before 15.1.2007 and the balance on or before 15.2.2007. However, if petitioner has not complied with the interim order dated 22.7.2003, then the stay order was not in force and in that event, there will be direction to the third respondent to immediately proceed for recovery of entire arrears and remit the same to Government account. It would be open to the Collector to take

appropriate action against third respondent if petitioner had not complied with the interim order dated 22.7.2003, but still the third respondent failed to proceed with recovery. The W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms